

AG Contract No.: KR04-1702TRN
ADOT ECS File No.: JPA 04-126
Project: Highway Improvements Project
Section: Western Segment of 115th Ave Bridge to
Estrella Parkway
TRACS No.: N/A
Budget Source Item No.: N/A
MCDOT Contract No.:

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA,
AND
THE MARICOPA COUNTY, ARIZONA,

THIS AGREEMENT is entered into 20th December, 2004, pursuant to Arizona Revised Statutes, § 11-951 through § 11-954, as amended, among the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the MARICOPA COUNTY, ARIZONA, acting by and through its BOARD OF SUPERVISORS (the "County").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-108, § 28-112, § 28-114, § 28-401 and § 28-7652 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The County is empowered by Arizona Revised Statutes § 11-251, § 28-401 and § 28-7652 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the County.

3. This Agreement shall supplement that certain Intergovernmental Agreement, JPA 97-033 which was entered into on September 11, 1997 by the parties hereto and the City of Avondale, filed with the Secretary of State under No. 21883.

4. The Arizona Legislature, through 2004 Senate Bill 1123 (S.B. 1123) and Senate Bill 1413 (S.B. 1413), a copy of which is attached hereto as Exhibit "A" and made a part hereof, has authorized the transfer of up to Five Million Dollars (\$5,000,000.00) from State transaction privilege tax revenues to the County, for the purpose of financing highway improvements to a County highway approaching and traversing the bridge constructed pursuant to the Agreement referenced above in Section I, paragraph 3. The County has determined that the County roads described in Exhibit B attached hereto, meet the requirements of S.B. 1123 and S.B. 1413, and shall be referred to herein as the "Highway Improvements Project".

5. The transfer of the funds up to \$5,000,000.00 from transaction privilege tax revenues is contingent upon sufficient matching funds from the County in the amount of \$100,000.00.

NO. 27265
Filed with the Secretary of State
Date Filed: 12/26/04

Janice K. Brewer
Secretary of State

By: Vinny D. Greenwald

6. The intent of this Agreement is to define the terms for the transfer of, if required to complete the Highway Improvement Project, up to \$5,000,000.00 of transaction privilege tax revenues from the State over a 12-year period to the County and the expenditure thereof.

7. The Highway Improvement Project will be constructed under the provisions of 2004 S.B. 1123 and S.B. 1413 and the estimated costs are as follows:

| | |
|--|-----------------------|
| Total Estimated Construction Cost | \$5,100,000.00 |
| AZ State SB 1123 Funds | \$5,000,000.00 |
| Estimated County Funds | \$ 100,000.00 |

II. SCOPE OF WORK

1. The County shall:

a. Be responsible to contribute its matching fund, in an amount estimated at \$100,000.00 to complete the Highway Improvement Project.

b. Be the lead agency, provide and be solely responsible for design studies, plans, specifications and such other document and services required for construction bidding and construction.

c. Call for bids and award the construction contracts for the Highway Improvement Project. Administer same and make all payments to the contractor(s). Be responsible for all costs associated with the Highway Improvement Project over and above the funds committed herein, and for any contractor claims for extra compensation due to delays or whatever reason.

d. Beginning in July 2007 and continuing through June 2019, invoice the State annually for S.B. 1123 and S.B. 1413 Highway Improvement Revenue funds for the reimbursement of actual costs of the Highway Improvement Project, in an amount up to \$416,667 per year or \$5,000,000.00 over the course of repayment period.

e. Be responsible to enter into a binding agreement with the owners of the Phoenix International Raceway (PIR) under which the owners, or their successors, will reimburse the County for any and all expenses the County may incur if the County is required to reimburse the State for S.B. 1123 Highway Improvement Revenue funds pursuant to A.R.S. § 28-401, D, A.R.S. § 28-7652, B or A.R.S. § 42-5032, B.

f. If, on or before June 30, 2014, the owner of the PIR conveys a majority interest in PIR to another owner or entity, reimburse the State the full amount of S.B. 1123 Highway Improvement Revenue funds received by the County as of the date of the conveyance of majority interest as provided by § 42-5032.B.

g. Upon completion of construction, approve and accept the Highway Improvement Project, and be responsible to provide for, at its own costs and as an annual item in its budget, proper and perpetual maintenance.

2. The State shall:

a. Upon execution of this Agreement, provide copies to Arizona State Treasurer Office and Arizona Department of Revenue respectively.

b. Pursuant to A.R.S. § 42-5032.B, the payment obligated under this Agreement will be made by Arizona State Treasurer Office and the State Treasurer Office shall, within 30 days after the receipt and approval of invoices, reimburse the County over a 12-year period in yearly installments beginning on or about July 31, 2007 in an amount up to \$416,667 per year for a total amount up to \$5,000,000.00 from S.B. 1123 Highway Improvement Revenue funds.

c. The State / ADOT shall have no other direct or indirect responsibilities with respect to the payments obligated under this Agreement, design, construction or maintenance of the Highway Improvements Project.

III. MISCELLANEOUS PROVISIONS

1. The State has no direct interest in the design or construction of the Highway Improvements Project. The only interest of the State in the Highway Improvements Project is to convey funds for the use and benefit of the County by reason of the State law under which funds for the Highway Improvements Project are authorized to be expended. Should the Highway Improvements Project not be completed, be partially completed, or be completed at a lower cost than the amounts contributed by the State, or for any other reason should any of these funds not be expended, a proportionate amount of the funds provided under this Agreement shall be reimbursed to the State.

2. The County agrees to indemnify and save harmless the State, or any of its departments, agencies, officers or employees, from and against all loss, expense, damage or claim of any nature whatsoever which is caused by any activity, condition or event arising out of the performance by the State or the County of any of the provisions of this Agreement.

3. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of the said Highway Improvements Project and related deposits or reimbursements; provided herein. However, any provisions for maintenance provided by the County shall be perpetual, unless or until such time as the City annexes the right-of-way of which the Highway Improvements are located or proposed to be located or assumed by another competent entity. Further, this Agreement may be terminated by either party at any time prior to the award of the design or construction contract, upon thirty (30) days written notice to the other party. It is understood and agreed that, in the event this Agreement is terminated by the County, the State shall in no way be obligated to maintain the said Highway Improvements Project.

4. This Agreement shall become effective upon filing with the Secretary of State.

5. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

6. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

7. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

8. Non-Availability of Funds. Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

9. In the event of any controversy, which may arise out of this Agreement, the parties hereby agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

10. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

For Agreement & General Correspondence:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 616E
Phoenix, AZ 85007
FAX: (602) 712 7424

Maricopa County Department of Transportation
ATTN: Transportation Director
2901 West Durango Street
Phoenix, AZ 85009

For General Billing / Invoice Correspondence:

Arizona State Treasurer Office
1700 West Washington Street, 1st Floor
Phoenix, AZ 85007

Maricopa County Department of Transportation
ATTN: Transportation Director
2901 West Durango Street
Phoenix, AZ 85009

11. Pursuant to Arizona Revised Statutes, Section 11-952 (D), attached hereto and incorporated herein, is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this Agreement and that the Agreement is in proper form.

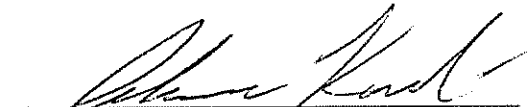
IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

MARICOPA COUNTY, ARIZONA

STATE OF ARIZONA

Department of Transportation

By

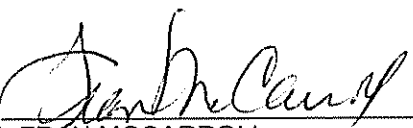

ANDREW KUNASEK
Board of Supervisors

By


VICTOR MENDEZ, Director
Arizona Department of Transportation

ATTEST

By


ERAN MCCARROLL
Clerk of the Board

12/15/04

Exhibit A

House Engrossed Senate Bill

State of Arizona
Senate
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 182

SENATE BILL 1123

AN ACT

AMENDING SECTIONS 28-401, 28-7653, 28-7654, 28-7655, 28-7656, 28-7657, 28-7658 AND 42-5032, ARIZONA REVISED STATUTES; PROVIDING FOR CONDITIONAL ENACTMENT; RELATING TO BRIDGE CONSTRUCTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 28-401, Arizona Revised Statutes, is amended to read:

28-401. Intergovernmental agreements

A. The department may contract under title 11, chapter 7, article 3 with a state public agency in this state or any other state if the general welfare of this state will be promoted and protected and if not in conflict with any other law.

B. The director shall enter into agreements on behalf of this state with political subdivisions or Indian tribes for the improvement or maintenance of state routes or for the joint improvement or maintenance of state routes.

C. The department may enter into an intergovernmental agreement pursuant to title 11, chapter 7, article 3 with a county with a population of more than two million persons according to the most recent United States decennial census for the construction, design, acquisition and attendant acquisition costs of a county highway bridge to provide direct access to commercial, residential and recreational facilities. The agreement shall:

1. Contain the commitment of the county to pay other monies for the purpose of financing the bridge.
2. State the responsibilities of each party with regard to planning, designing, constructing, owning and maintaining the bridge.
3. Provide that payment for the costs of the bridge shall be made from contributions from the parties to the agreement and other contributors before the use of state transaction privilege tax distributions.

Exhibit A

D. THE DEPARTMENT MAY ENTER INTO AN INTERGOVERNMENTAL AGREEMENT PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3 WITH A COUNTY WITH A POPULATION OF MORE THAN TWO MILLION PERSONS FOR THE DESIGN, RECONSTRUCTION AND IMPROVEMENT COSTS OF A COUNTY HIGHWAY APPROACHING AND TRAVERSING A BRIDGE CONSTRUCTED PURSUANT TO SUBSECTION C OF THIS SECTION. THE AGREEMENT SHALL:

1. CONTAIN THE COMMITMENT OF THE COUNTY TO PAY OTHER MONIES FOR THE PURPOSE OF FINANCING THE HIGHWAY IMPROVEMENTS.
2. STATE THE RESPONSIBILITIES OF EACH PARTY WITH REGARD TO PLANNING, DESIGNING, CONSTRUCTING, OWNING AND MAINTAINING THE HIGHWAY.
3. PROVIDE THAT PAYMENT FOR THE COSTS SHALL BE MADE FROM CONTRIBUTIONS FROM THE PARTIES TO THE AGREEMENT AND OTHER CONTRIBUTORS BEFORE THE USE OF STATE TRANSACTION PRIVILEGE TAX DISTRIBUTIONS.
4. PROVIDE FOR REIMBURSEMENT TO THE STATE GENERAL FUND OF THE AMOUNT OF HIGHWAY IMPROVEMENT REVENUES PAID TO THE HIGHWAY IMPROVEMENT INTEREST FUND OR REDEMPTION FUND UNDER SECTION 28-7656, SUBSECTION B ON THE VOLUNTARY CONVEYANCE OF A MAJORITY OWNERSHIP INTEREST IN A SPORTS ENTERTAINMENT FACILITY AS PRESCRIBED BY SECTION 42-5032, SUBSECTION B.
5. CONTAIN THE REPRESENTATION OF THE COUNTY THAT IT HAS THE LEGALLY BINDING ASSURANCE OF THE OWNER OF A SPORTS ENTERTAINMENT FACILITY AS DEFINED IN SECTION 42-5032, SUBSECTION E, THAT THE OWNER WILL REIMBURSE THE COUNTY FOR ANY AND ALL EXPENSE THE COUNTY MAY INCUR UNDER SUBSECTION D, PARAGRAPH 4 OF THIS SECTION AND SECTION 42-5032, SUBSECTION B.
6. BE SUBMITTED TO THE JOINT LEGISLATIVE BUDGET COMMITTEE FOR ITS REVIEW BEFORE THE EXECUTION OF THE AGREEMENT.

~~D.~~ E. The department may enter into agreements with Indian tribes to provide a method or formula to refund taxes paid on exempt motor fuel purchases or use pursuant to this title. For the purposes of this subsection, "motor fuel" has the same meaning prescribed in section 28-5601.

~~E.~~ F. The department may enter into an intergovernmental agreement pursuant to title 11, chapter 7, article 3 that obligates the department to indemnify and defend a city, town, county, flood control district, irrigation district or agricultural improvement district or any other political subdivision or governmental agency against claims of liability for injuries, losses or damages incurred in any way as a result of the acts or omissions of the department, including acts, errors, omissions or mistakes of any person for which the department may be liable, and arising out of the construction, operation or maintenance of department projects or facilities or use of department projects or facilities. A city, town, county, flood control district, irrigation district or agricultural improvement district or any other political subdivision or governmental agency may enter into an intergovernmental agreement pursuant to title 11, chapter 7, article 3 that obligates such an entity to indemnify and defend the department against claims of liability for injuries, losses or damages incurred in any way as a result of the acts or omissions of such entity, including acts, errors, omissions or mistakes of any person for which the entity may be liable, and arising out of the construction, operation or maintenance of projects or facilities or use of projects or facilities. Any indemnification pursuant to an intergovernmental agreement must be approved by state risk management in the department of administration.

Sec. 2. Section 28-7653, Arizona Revised Statutes, is amended to read:

Exhibit A

28-7653. Bonds secured by bridge construction revenues; bonds secured by highway improvement revenues

A. If a majority of the members of the county board of supervisors authorizes the issuance of bonds SECURED BY BRIDGE CONSTRUCTION REVENUES by resolution dated before July 1, 1998, the county may issue the bonds so authorized in the manner provided in this article. The bonds SECURED BY BRIDGE CONSTRUCTION REVENUES may be authorized in an aggregate principal amount of not more than five million dollars.

B. IF A MAJORITY OF THE MEMBERS OF THE COUNTY BOARD OF SUPERVISORS AUTHORIZES THE ISSUANCE OF BONDS SECURED BY HIGHWAY IMPROVEMENT REVENUES BY RESOLUTION DATED BEFORE DECEMBER 31, 2004, THE COUNTY MAY ISSUE THE BONDS SO AUTHORIZED IN THE MANNER PROVIDED IN THIS ARTICLE. BONDS SECURED BY HIGHWAY IMPROVEMENT REVENUES MAY BE AUTHORIZED IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN FIVE MILLION DOLLARS.

C. ALL PROCEEDS, REVENUES, ACCOUNTING AND PAYMENTS WITH RESPECT TO BONDS SECURED BY BRIDGE CONSTRUCTION REVENUES PURSUANT TO THIS ARTICLE SHALL BE CONDUCTED AND MAINTAINED SEPARATELY FROM THOSE WITH RESPECT TO BONDS SECURED BY HIGHWAY IMPROVEMENT REVENUES PURSUANT TO THIS ARTICLE.

~~B.~~ D. The Bonds ISSUED PURSUANT TO THIS ARTICLE shall not be considered to be a debt of the county or the state within any constitutional or statutory debt limit.

~~C.~~ E. When the bonds ISSUED PURSUANT TO THIS ARTICLE are sold, a schedule shall be filed with the county treasurer showing the amounts of principal and interest to be paid at each principal and interest payment date.

~~D.~~ F. The county shall pledge all or any part of the bridge construction revenues to be received and the county's rights in the BRIDGE CONSTRUCTION intergovernmental agreement to the payment of an amount of the bonds SECURED BY BRIDGE CONSTRUCTION REVENUES. THE COUNTY SHALL PLEDGE ALL OR ANY PART OF THE HIGHWAY IMPROVEMENT REVENUES TO BE RECEIVED AND THE COUNTY'S RIGHTS IN THE HIGHWAY IMPROVEMENT INTERGOVERNMENTAL AGREEMENT TO THE PAYMENT OF AN AMOUNT OF THE BONDS SECURED BY HIGHWAY IMPROVEMENT REVENUES. ~~This pledge constitutes~~ THE PLEDGES CONSTITUTE an irrevocable assignment to the officer charged with paying the APPLICABLE bonds that is binding on the county. No notice of the assignment need be filed or recorded and no public notice of any nature is required to make the pledge effective against any person claiming an interest in the bridge construction revenues OR HIGHWAY IMPROVEMENT REVENUES, AS APPLICABLE, except a holder of the bonds. On receipt of any payment of bridge construction revenues OR HIGHWAY IMPROVEMENT REVENUES, the county treasurer shall cause a sufficient portion of the amount received to be deposited in the BRIDGE CONSTRUCTION redemption fund and interest fund, OR THE HIGHWAY IMPROVEMENT REDEMPTION FUND OR INTEREST FUND, established under section 28-7656 pertaining to the APPLICABLE bonds.

~~E.~~ G. No BRIDGE CONSTRUCTION bondholder may claim a preference as to source of payment over any other BRIDGE CONSTRUCTION bondholder of the same series. NO HIGHWAY IMPROVEMENT BONDHOLDER MAY CLAIM A PREFERENCE AS TO SOURCE OF PAYMENT OVER ANY OTHER HIGHWAY IMPROVEMENT BONDHOLDER OF THE SAME SERIES.

Sec. 3. Section 28-7654, Arizona Revised Statutes, is amended to read:

28-7654. Issuance of bonds

Exhibit A

A. The county board of supervisors is authorized to issue bonds secured by a pledge of bridge construction revenues.

B. THE COUNTY BOARD OF SUPERVISORS IS AUTHORIZED TO ISSUE BONDS SECURED BY A PLEDGE OF HIGHWAY IMPROVEMENT REVENUES.

B. C. The ANY bonds ISSUED PURSUANT TO THIS ARTICLE may be issued in one or more series, bear the dates, be payable in the medium of payment and at the places, bear the rates of interest, including variable rates, carry the registration privileges and prior redemption provisions, be executed in the manner, contain the other terms, covenants and conditions and be in the form the board of supervisors prescribes. The bonds shall be sold at, above or below par in the manner as the board of supervisors determines.

Sec. 4. Section 28-7655, Arizona Revised Statutes, is amended to read:

28-7655. Characteristics of bonds

The bonds issued under this article:

1. Are fully negotiable within the meaning and for all purposes provided by title 47.
2. Are payable only according to their terms from bridge construction revenues OR HIGHWAY IMPROVEMENT REVENUES, AS APPLICABLE, and are not general, special or other obligations of the issuing county or this state. The bonds do not constitute a legal debt of this state and are not enforceable against this state. Payment of the bonds shall not be made from any monies other than those allowed to be pledged.

Sec. 5. Section 28-7656, Arizona Revised Statutes, is amended to read:

28-7656. Interest fund; redemption fund

A. The treasurer of the county issuing the bonds SECURED BY BRIDGE CONSTRUCTION REVENUES shall establish an interest fund and a redemption fund for paying the bonds. The treasurer shall deposit into the funds bridge construction revenues in amounts sufficient to pay the interest and principal of the bonds as they mature. The funds shall be used solely to pay principal and interest on the bonds.

B. THE TREASURER OF THE COUNTY ISSUING BONDS SECURED BY HIGHWAY IMPROVEMENT REVENUES SHALL ESTABLISH AN INTEREST FUND AND A REDEMPTION FUND FOR PAYING THE BONDS. THE TREASURER SHALL DEPOSIT INTO THE FUNDS HIGHWAY IMPROVEMENT REVENUES IN AMOUNTS SUFFICIENT TO PAY THE INTEREST AND PRINCIPAL OF THE BONDS AS THEY MATURE. THE FUNDS SHALL BE USED SOLELY TO PAY THE PRINCIPAL AND INTEREST ON THE BONDS.

C. THE FUNDS UNDER SUBSECTIONS A AND B SHALL BE ESTABLISHED AND MAINTAINED SEPARATELY AND USED EXCLUSIVELY FOR THE RESPECTIVE PURPOSES FOR WHICH THEY ARE ESTABLISHED.

Sec. 6. Section 28-7657, Arizona Revised Statutes, is amended to read:

28-7657. Pledge of revenues to secure debt instruments

A. Notwithstanding any other provision of this article, a county that receives bridge construction revenues may pledge, by separate covenant included in the resolution authorizing the issuance of any BRIDGE

Exhibit A

CONSTRUCTION REVENUE bonds under this article or obligations it may incur, future receipts of the revenues to the payment of the BRIDGE CONSTRUCTION REVENUE bonds or to the costs of the bridge. The pledge may be included in the resolution authorizing the issuance of the bonds.

B. The resolution authorizing THE ISSUANCE OF the bonds may also authorize assigning bridge construction revenues to a trustee or paying agent to secure the bonds.

B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A COUNTY THAT RECEIVES HIGHWAY IMPROVEMENT REVENUES MAY PLEDGE, BY SEPARATE COVENANT INCLUDED IN THE RESOLUTION AUTHORIZING THE ISSUANCE OF HIGHWAY IMPROVEMENT REVENUE BONDS UNDER THIS ARTICLE OR OBLIGATIONS IT MAY INCUR, FUTURE RECEIPTS OF THE REVENUES TO THE PAYMENT OF THE HIGHWAY IMPROVEMENT REVENUE BONDS OR TO THE COSTS OF THE HIGHWAY IMPROVEMENTS. THE PLEDGE MAY BE INCLUDED IN THE RESOLUTION AUTHORIZING THE ISSUANCE OF THE BONDS. THE RESOLUTION AUTHORIZING THE ISSUANCE OF THE BONDS MAY ALSO AUTHORIZE ASSIGNING HIGHWAY IMPROVEMENT REVENUES TO A TRUSTEE OR PAYING AGENT TO SECURE THE BONDS.

Sec. 7. Section 28-7658, Arizona Revised Statutes, is amended to read:

28-7658. Agreement of state

A. This state pledges to and agrees with the holders of the bonds SECURED BY BRIDGE CONSTRUCTION REVENUES AND HIGHWAY IMPROVEMENT REVENUES that it will not limit, alter or impair the rights vested in a county under this article to receive bridge construction revenues OR HIGHWAY IMPROVEMENT REVENUES, AS APPLICABLE, AND AS necessary to produce sufficient revenue to fulfill the terms of any intergovernmental agreements made with the county, or in any way impair the rights and remedies of the bondholders to receive bridge construction THE NECESSARY revenues, until all THE APPLICABLE bonds issued under this article, are fully met and discharged.

B. The county may include this pledge and undertaking in its resolutions and indentures securing the bonds under this article.

Sec. 8. Section 42-5032, Arizona Revised Statutes, is amended to read:

42-5032. Distribution of bridge construction revenues to county; definitions

A. ~~Through June 30, 2010, If, by June 30, 1998,~~ the department of transportation enters into an intergovernmental agreement pursuant to section 28-401, SUBSECTION C or section 28-7652, SUBSECTION A for the construction of a bridge, the state treasurer shall pay each month, beginning from and after June 30, 1998 THROUGH JUNE 30, 2010, pursuant to section 42-5029, subsection D, paragraph 4, one-twelfth of the amount determined under THIS subsection B ~~of this section~~ to a county that issues bonds pursuant to title 28, chapter 21, article 4 or enters into an intergovernmental agreement pursuant to section 28-401, SUBSECTION C.

B. ~~The amount to be paid under THIS subsection A of this section~~ is the amount of state transaction privilege tax revenues received each calendar year, up to four hundred sixteen thousand six hundred sixty-seven dollars, from TAXPAYERS DESCRIBED IN SUBSECTION C OF THIS SECTION.

B. IF, BY DECEMBER 30, 2004, THE DEPARTMENT OF TRANSPORTATION ENTERS INTO AN INTERGOVERNMENTAL AGREEMENT PURSUANT TO SECTION 28-401, SUBSECTION D OR SECTION 28-7652, SUBSECTION B FOR THE DESIGN, RECONSTRUCTION AND

Exhibit A

IMPROVEMENT OF A COUNTY HIGHWAY APPROACHING AND TRAVERSING A BRIDGE FINANCED PURSUANT TO SUBSECTION A OF THIS SECTION, THE STATE TREASURER SHALL PAY EACH MONTH, BEGINNING FROM AND AFTER JUNE 30, 2007 THROUGH JUNE 30, 2019, PURSUANT TO SECTION 42-5029, SUBSECTION D, PARAGRAPH 4, ONE-TWELFTH OF THE AMOUNT DETERMINED UNDER THIS SUBSECTION TO A COUNTY THAT ISSUES BONDS PURSUANT TO TITLE 28, CHAPTER 21, ARTICLE 4 OR ENTERS INTO AN INTERGOVERNMENTAL AGREEMENT PURSUANT TO SECTION 28-401, SUBSECTION D. THE AMOUNT TO BE PAID UNDER THIS SUBSECTION IS THE AMOUNT OF STATE TRANSACTION PRIVILEGE TAX REVENUES RECEIVED EACH CALENDAR YEAR, UP TO FOUR HUNDRED SIXTEEN THOUSAND SIX HUNDRED SIXTY-SEVEN DOLLARS, FROM TAXPAYERS DESCRIBED IN SUBSECTION C OF THIS SECTION. IF AN OWNER OF A SPORTS ENTERTAINMENT FACILITY DESCRIBED IN THIS SECTION VOLUNTARILY CONVEYS A MAJORITY OWNERSHIP INTEREST IN THE FACILITY TO ANOTHER ENTITY OR OWNER ON OR BEFORE JUNE 30, 2014, THE COUNTY MUST REIMBURSE THE STATE GENERAL FUND THE AMOUNT PAID TO THE COUNTY PURSUANT TO THIS SUBSECTION THROUGH THE DATE OF THE CONVEYANCE, EITHER BY WITHHOLDING TRANSACTION PRIVILEGE TAX REVENUES OTHERWISE PAYABLE TO THE COUNTY UNDER SECTION 42-5029, SUBSECTION D OR AS OTHERWISE PROVIDED BY THE INTERGOVERNMENTAL AGREEMENT ENTERED INTO PURSUANT TO SECTION 28-401, SUBSECTION D. THE REIMBURSEMENT OF MONIES TO THE STATE GENERAL FUND PURSUANT TO THIS SUBSECTION DOES NOT AFFECT THE CONTINUING PAYMENT OF HIGHWAY IMPROVEMENT REVENUES TO THE HIGHWAY IMPROVEMENT INTEREST FUND OR THE REDEMPTION FUND UNDER SECTION 28-7656, SUBSECTION B. FOR THE PURPOSES OF THIS SUBSECTION, A CONVEYANCE OCCURS ON THE DATE A TRANSFER OF OWNERSHIP OR AN OPTION TO ACQUIRE OWNERSHIP BECOMES IRREVOCABLE.

C. THIS SECTION APPLIES WITH RESPECT TO TRANSACTION PRIVILEGE TAX REVENUES COLLECTED FROM all persons conducting business under any business classification under this article at a sports entertainment facility, destination resort or retail center that both COMPLIES WITH ALL OF THE FOLLOWING:

1. Produces a total of at least six hundred thousand dollars each year in transaction privilege tax revenues to this state pursuant to this article.

2. Will acquire direct county highway access EITHER:

- (a) Across a river by the bridge constructed.

- (b) BY WAY OF THE COUNTY HIGHWAY BEING WIDENED AND IMPROVED.

3. PRODUCES AT LEAST NINE HUNDRED THOUSAND DOLLARS IN EACH OF THE YEARS 2007 THROUGH 2011 IN TRANSACTION PRIVILEGE TAX REVENUES TO THIS STATE.

~~C.~~ D. The department shall report the amount under subsection SUBSECTIONS A AND B of this section to the state treasurer on or before March 31 of each year for payment for the following fiscal year.

~~D.~~ E. For purposes of this section:

1. "Destination resort" means a person engaged in businesses classified under both the transient lodging classification and the amusement classification that provides on-site recreational facilities such as a golf course, tennis courts or a riding stable.

Exhibit A

2. "Retail center" means a complex consisting of at least two businesses classified under the retail classification.

3. "Sports entertainment facility" means a complex located on at least three hundred acres that requires a ticket for admission for viewing a sporting event.

Sec. 9. Conditional enactment; notice

A. This act does not become effective unless a sports facility, as defined by section 42-5032, Arizona Revised Statutes, is selected as the site of an additional major national sporting event by December 31, 2004.

B. On or before December 31, 2004, the director of the department of revenue shall notify the director of the legislative council whether this condition occurred.

APPROVED BY THE GOVERNOR MAY 3, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 3, 2004.

EXHIBIT B

The Highway Improvements Project

The funds provided pursuant to this Agreement shall be used to finance highway improvements to a County highway approaching and traversing the bridge constructed pursuant to the Agreement referenced in section 1.3. of this Agreement. The County will improve the western segments of said highway extending west from the bridge to the Estrella Parkway.

Agenda Activity: Action
 Department: Transportation
 Category: Chief Regional Dvlpmnt Svcs
 Contact: Jon White
 Return to: Jon White
 Location: DEPT OF TRANSPORTATION ADMIN BLDG

Agenda Number: C-64-05-171-2-00
 Phone: 506-0012
 Continued from: Phone: 506-0012

Action Requested:

Approve an Intergovernmental Agreement between Maricopa County and the State of Arizona, pending concurrence of the Joint Legislative Budget Committee on December 16, for the expenditure of up to \$5 million in State transaction privilege tax dollars for the purpose of financing improvements to a County highway approaching and traversing the 115th Ave. Bridge in accordance with the provisions of 2004 SB1123. Maricopa County would undertake the improvements and be reimbursed for its expenses up to \$5 million in 12 equal, annual payments of \$416,667 beginning in FY 2008. The improvements will enhance access to the Phoenix International Raceway. MCDOT will spend up to \$100,000 of its own funds on design and site evaluation bringing the total project cost to \$5.1 million. The agreement secures a financing mechanism for the project but does not commit the County to carry out the project which is still in planning and design.

Complete description of action requested:

Senate Bill 1123, passed by the Arizona Legislature and signed into law by the Governor on May 3, 2004, authorizes the expenditure of up to five million dollars (\$5,000,000.00) from transaction privilege tax revenues for the purpose of financing highway improvements to a County highway approaching and traversing the 115th Avenue bridge constructed pursuant to 1997 House Bill 2353. The improvements will enhance access to a sports entertainment facility as specified in the bill, in this instance the Phoenix International Raceway (PIR)

SB 1123 authorizes the Arizona Department of Transportation (ADOT) to enter into an intergovernmental agreement with Maricopa County to provide for the use of transaction privilege tax revenues for this purpose. The bill sets forth a number of requirements for the agreement. Among these are that the agreement must:

- Be executed by December 30, 2004;
- Contain the commitment of the County to contribute other funds for financing the highway improvements;
- Clarify responsibilities with regard to planning, designing, constructing, owning and maintaining the highway;
- Provide for payments from transaction privilege tax funds over a twelve-year period;
- Provide for reimbursement to the state general fund if the owners of the PIR convey a majority interest in the facility on or before June 30, 2014;
- Contain the County's confirmation that it has a legally binding assurance from the owners of PIR that the County will, in turn, be reimbursed by the owners of PIR for any and all reimbursement expenses the County incurs if ownership of PIR changes; and
- Be submitted to the Joint Legislative Budget Committee for review before execution of the agreement.

This draft agreement satisfies all of the requirements set forth in SB 1123 and has been submitted to JLBC for review at its December 16, 2004 meeting

Supervisor District 5

PERFORMANCE INFORMATION:

Program: Support Transportation Systems

Activity: Project Partnerships

Performance Measure: # of project partnership agreements completed

Anticipated Result: Approval of the agreement will provide up to \$5 million in financing for roadway improvements that will enhance access and mobility in the vicinity of the Phoenix International Raceway. These improvements will address significant ingress and egress issues for a facility that generates substantial economic benefit to Maricopa County and the municipalities near the raceway.

Expenditure Impact by FY(s):

No Direct Financial Impact.

"Please return an executed original to the Clerk of the Board of Supervisors."

| | | |
|--|-------|-----|
| Routing: Meeting Date: 12/15/2004 | | |
| Legend X=Pending A=Approved R=Rejected | | |
| CNTY ENGR | LEGAL | OMB |
| A | A | A |

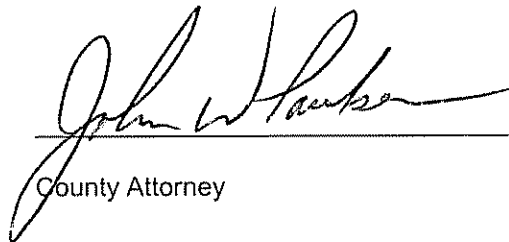
Fran McCarroll

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APPROVAL OF THE COUNTY OF MARICOPA ATTORNEY

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the MARICOPA COUNTY, an agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this agreement to be in proper form and within the powers and authority granted to the COUNTY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 13th day of December, 2004.


County Attorney



TERRY GODDARD
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TRANSPORTATION SECTION
WRITER'S DIRECT NO: 602.542.8837

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR04-1702-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

Date: 17 December 2004

Terry Goddard
ATTORNEY GENERAL

A handwritten signature in black ink, reading "James R. Redpath". The signature is written in a cursive style with a horizontal line underneath it.

James R. Redpath
Assistant Attorney General
Transportation Section

JRR:djd:780214